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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/871,154

05/31/2001

Howard A. Heller

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DEPT. ICC

UNITED PLAZA

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PHILADELPHIA, PA 19103

EXAMINER

IQBAL, KHAWAR

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

07/21/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

eoffice@volpe-koenig.com

Office Action Summary	Application No.	Applicant(s)	
	09/871,154	HELLER ET AL.	
	Examiner	Art Unit	
	KHAWAR IQBAL	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05-31-11 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 35-48 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 35 and 42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The prior art of record does not disclose or

make obvious the claimed term of "the database is configured to contain information regarding available channels and wherein the database is located in a second network" claim 35, lines 5-6. The original specification fails to clearly define or provide support the limitation "the database is configured to contain information regarding available channels and wherein the database is located in a second network". Thus "the database is configured to contain information regarding available channels" was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 35-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Dowling (7035932).

Regarding claim 35 Dowling discloses a wireless transmit/receive unit, operating in a first network, comprising (fig. 1):

a transmitter (102, fig. 1) configured to send a request for information regarding available channels to a server (125, fig. 1) connected to the Internet (122, fig. 1) and coupled to a database (125, fig. 1) wherein the database (125, fig. 1) is configured to contain information regarding available channels the database (125, fig. 1) is configured to contain information regarding available channels (col. 13, lines 1-16);

a receiver (102, fig. 1) configured to receive over a first communication interface (110, fig. 1) information regarding the available channels received from the database (col. 13, line 61-col. 14, line 5); and

a processor (102, fig. 1) configured to determine whether to switch to a second communication interface (145, fig. 1) based on the information received from the database regarding the available channels (col. 15, lines 17-32).

Regarding claim 36 Dowling discloses wherein the request includes WTRU capability information (col. 13, lines 11-20).

Regarding claim 37 Dowling discloses wherein the request includes WTRU location information (col. 13, lines 11-20).

Regarding claim 38 Dowling discloses wherein the WTRU capability information includes authentication information, protocol information and a maximum transmission power (col. 4, 20-35, col. 13, lines 11-25, see claim 35 for more detail).

Regarding claim 39 Dowling discloses wherein the WTRU switches to the second communication interface based on the information received from the database regarding available channels (col. 15, lines 17-32).

Regarding claim 40 Dowling discloses wherein the WTRU receives updated channel information (col. 16, lines 20-35 and see more detail in claim 35).

Regarding claim 41 Dowling discloses wherein the information received regarding available channels includes maximum transmission strength (col. 4, lines 20-35 and see more detail in claim 35).

Regarding claim 42 Dowling discloses an apparatus, comprising:

a receiver configured to receive a request for information regarding available channels wherein the apparatus is connected to the Internet and coupled to a database and wherein the database is configured to contain information regarding available channels, and further wherein the database is located in a second network (col. 13, lines 1-15);

a transmitter configured to transmit the information regarding the available channels received from the database over a first communication interface (col. 13, lines 61-col. 14, lines 5); and

a processor configured to determine whether to switch to a second communication interface based on the information received from the database regarding the available channels (col.15, lines 15-35).

Regarding claim 43 Dowling discloses wherein the request includes capability information (col. 13, lines 1-15).

Regarding claim 44 Dowling discloses wherein the request includes location information (col. 13, lines 1-15).

Regarding claim 45 Dowling discloses wherein the capability information includes authentication information, protocol information and a maximum transmission power (col. 4, 20-35, col. 13, lines 11-25, see claim 42 for more detail).

Regarding claim 46 Dowling discloses wherein the apparatus switches to the second communication interface based on the information received from the database regarding the available channels (col. 15, lines 15-35).

Regarding claim 47 Dowling discloses wherein the apparatus receives updated channel information (col. 16, lines 20-35 and see more detail in claim 42).

Regarding claim 48 Dowling discloses wherein the information received regarding available channels includes maximum transmission strength (col. 4, lines 20-35 and see more detail in claim 35).

Regarding claim 49-50 Dowling discloses wherein the first network is different from the second network (fig. 1, WLAN and CDMA).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAWAR IQBAL whose telephone number is (571)272-7909. The examiner can normally be reached on 8:30 am to 5:00 pm Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KAMRAN AFSHAR can be reached on 571-272-7796. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. I./

Examiner, Art Unit 2617

/KAMRAN AFSHAR/

Supervisory Patent Examiner, Art Unit 2617